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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
California Public Utilities Commission and	)	NSD File No. 98-136
The People of the State of California Petition	)	
for Delegation of Additional Authority	)	
Pertaining to Area Code Relief and to	)	
NXX Code Conservation Measures	)	
	)	
Implementation of the Local	)	CC Docket No. 96-98
Competition Provisions of the	)	
Telecommunications Act of 1996	)	

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**COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) hereby files its comments on the petition filed by the California Public Utilities Commission and the People of the State of California (California) for additional authority pertaining to area code relief planning and implementation and to NXX code conservation measures in the above-captioned proceeding.<sup>1</sup> USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the exchange carrier-provided access lines in the United States.

In its petition, California seeks delegated authority to implement a mandatory number pooling trial, to order "efficient number use practices" within NXX codes, to

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<sup>1</sup> Public Notice, DA 99-928, released May 14, 1999 (Public Notice).

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consider requests by carriers for assignment of codes outside the NXX code rationing process, to order carriers to return unused NXX codes to the code administrator, and to order carriers to return unused or under-utilized portions of NXX codes to the pooling administrator.

The California petition is the fifth request of a state filed with the Commission since February seeking similar individual state relief to deal with number shortages.<sup>2</sup> These petitions generally seek similar relief—that the needs of their state are so severe that they need to fashion a state-specific plan to address their numbering problems. The arguments against granting such relief are also similar. As USTA cautioned in previous proceedings, the Commission should take immediate action that favors the industry processes underway for number conservation over the individual state requests if the Commission and the industry are to be spared an endless, resource draining, parade of “me too” petitions on number conservation authority. Such action would make it clear to states that their individual but similar requests for relief are not in order.<sup>3</sup>

As with the other states, the relief requested by California will not solve the numbering problems that California faces. The stated problems could not form the basis for grant of a waiver, even if they had merit, and if granted, would serve to

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<sup>2</sup> See New York Department of Public Service Petition, NSD File No. L-99-21 (New York Petition); Massachusetts Department of Telecommunications and Energy Petition, NSD File No. L-99-19 (Massachusetts Petition); Maine Public Utilities Commission Petition, NSD File No. L-99-27 (Maine Petition); and Florida Public Service Commission Petition, NSD File No. 99-33 (Florida Petition).

<sup>3</sup> On May 27, 1999, the Commission initiated a new proceeding with the stated purpose of slowing the rate of number exhaust and to prolong the life of the North American Numbering Plan (NANP). *Number Resource Optimization*, CC Docket No. 99-200, Notice of Proposed Rulemaking, FCC 99-122, released June 2, 1999 (Numbering Resource Notice). The California and other state petitions were referenced in the Numbering Resource Notice, at ¶ 245, and the Commission stated that the issues raised in those petitions would be addressed in separate proceedings.

undermine the national programs and development of orderly national measures that could result in national anarchy in assignment of numbering resources.

Furthermore, as with other recently-filed petitions of other states, California seeks authority in contravention of the orderly process of administering numbering resources that the Commission has prescribed.<sup>4</sup> Particularly, the relief that California requests in this petition is also the subject of petitions for reconsideration filed by several states of the Commission's *Memorandum Opinion and Order and Order on Reconsideration* in Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, NSD File No. L-97-42, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98 (Pennsylvania Order).<sup>5</sup> Those petitions are pending before the Commission. USTA opposed the relief requested by California and other states in its February 4, 1999 Opposition. The arguments made by USTA against the state petitions apply to this proceeding and are hereby incorporated by reference.

USTA believes that this petition constitutes a "second bite of the apple," taken even before confirmation of the fact that challenges to the Pennsylvania Order have been unsuccessful. Having failed to overturn the basic structure of the Pennsylvania Order, this challenge proposes that the Commission grant California broad powers to implement multiple options for conservation of numbers and NXX

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<sup>4</sup> 47 C.F.R. Part 52.

<sup>5</sup> FCC 98-224, released September 28, 1998.

codes absent any assurance that these measures will not create conflicts with ongoing national efforts to address these issues. As justification for this expanded power, California asserts that “the authority the FCC has delegated to the states is not enough for [California] to respond with any degree of effectiveness to the overwhelming demand for numbers in California.”<sup>6</sup> It is difficult to understand California’s scenario that codes are going into jeopardy within days or weeks after relief implementation has concluded. Surely, the rate of demand in these situations was clearly known and the fact that further exhaust was imminent was also known well in advance. In order for such a situation to be decisionally significant, California would have to place more specific facts on the record.

USTA recognizes that many of the concerns about assignment guidelines and enforcement cited in the California pleading are valid. USTA has stated its willingness to participate in national activities to resolve such issues.<sup>7</sup> However, USTA strongly disagrees with the assertion that California be permitted to make independent determinations of what types of relief are appropriate, the structural characteristics of these conservation measures, and be delegated the power to mandate their implementation. The Commission, having asserted its preemptive authority over numbering issues, must now determine that states must not be permitted to frustrate ongoing national efforts to address these issues through the “back door” of delegation of broad authority.

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<sup>6</sup> California Petition at 6.

<sup>7</sup> See USTA’s Comments on the Maine Petition at 5, n.8.

The current situation in California as described by the California petition requires the industry's best efforts to address the issues of relief. These problems would be best addressed in California and the nation if California would aggressively address the issues of planning for relief in that state, meaningfully addressing conservation and administration issues and participate in national efforts being conducted under the direction of the North American Numbering Council (NANC). These efforts, when finalized and implemented, will actually improve the utilization of national numbering resources as intended, in an efficient, cost effective and consistent national structure.

Despite the fact that the substance of many of California's requests has been addressed in USTA's comments on other states' petitions, some of the specific relief requests contained in the California petition are addressed below.

**1. Thousand Block Pooling and Individual Number Block (ITN) Pooling**

As indicated above, the industry is vigorously addressing the structure of thousand block pooling in the NANC process. The number of individuals in the industry that are expert in making the necessary determinations is quite limited. The demands on their time is significant and a many complex issues must be resolved. There are significant implications for administration of the pools, requirements on the NPACs, and economy<sup>8</sup> of the measures that are implemented.

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<sup>8</sup> It is to be noted that the costs for these activities must be recovered by the carriers. In the case of expenses that must be borne directly by the carriers, regulated carriers must be provided with recovery mechanisms and non regulated carriers must determine the methods by which they will recover their costs. Other costs that relate to administration activities will be recovered from the industry on an overall basis through the NBANC. An essential element of the planning activity is that the most economical and effective measures be identified and designed, and that effective means for recovery of the costs be implemented.

The industry does not have access to the resources necessary to conduct multiple parallel activities in order to make differing determinations on these issues. Mandatory implementation of state-specific versions of thousand block pooling would divert critical resources from the national effort. Because of these interactions, grant of the authority requested could actually slow the resolution of these issues on a national basis. The Commission and the industry cannot afford this result.

The increase in cost of deployment of various types of pooling across the United States could be enormous. Many LECs that operate in the 100 MSAs in which LNP has been deployed operate across multiple state regions. The operational implications of number pooling are significant, requiring major development, time and expense to accomplish. If multiple forms of pooling are implemented in different states, the increase in cost required for a company to deploy multiple state-specific versions could be drastically increased. This would have the effect of delaying deployment of effective measures and increasing the cost of those that are deployed.

In its Number Resource Notice,<sup>9</sup> the Commission raised the issue of what entity should be given authority to order pooling. This determination should be made before any action is taken on a specific state request, such as California's. Therefore, California's request should be denied.

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<sup>9</sup> ¶¶ 146-147.

In the case of ITN pooling, the Commission addressed this issue in its Number Resource Notice<sup>10</sup> and determined not to pursue ITN pooling at this time. Therefore, California should not be granted authority to implement ITN pooling given this determination by the Commission.

## **2. Number Utilization Standards**

California seeks authority to impose such number management practices as fill rates or sequential numbering. The Pennsylvania Order provides for states to engage in specific conservation activities when appropriate planning for relief has been conducted. USTA believes that engaging in the activities requested by California in its petition would result in confusion and, in effect, would supersede national policy determinations with a patchwork quilt of individualized state policies and requirements imposed on carriers. Imposition of alternative requirements has the potential of creating difficulties with mechanized systems. Many of the issues in which California requests authority are under ongoing development in national forums. California's request should fail in the first instance because it has made no proposals as to specifically what its conservation measures would be.

Many of these same issues are under consideration in the national forums, as has been shown in previous proceedings on other state requests.<sup>11</sup> USTA recognizes that many of the concerns about assignment guidelines and enforcement

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<sup>10</sup> ¶141.

<sup>11</sup> *See, e.g.*, USTA's Comments on the New York Petition.

are valid and would be willing to participate in national activities to resolve these issues.<sup>12</sup>

### **3. Return of Unused NXX Codes**

California seeks authority to reclaim unused and unactivated codes from carriers. A state does not now have the authority to order NANPA to take any action. If California has a strong view on assignment of an additional number resource, it can provide that information to NANPA with a request for specific action. If it does not concur with NANPA's determination, a state can appeal to the Commission.

While USTA understands the frustration with the current system, delegation of authority to California as requested would create further confusion. The NANPA must continue to have the authority and responsibility to apply industry requirements to all entities involved. To delegate parallel responsibility to a state would create additional complexity and uncertainty.

USTA agrees that enforcement of existing requirements is an issue that requires attention and would support additional activity at the national level to address this problem. USTA believes that California and the nation would be better served if the energies and expertise of California that would be expended in the activities in which it seeks to engage were directed toward provision of input to the national development process. The effect would be to address the issue to the

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<sup>12</sup> In fact, during the May 25, 1999 NANC Steering Group meeting, Paul Hart, USTA Vice President for Technical Disciplines and Member of NANC, presented specific written suggestions regarding conservation and ways to address and assist state commissions in the use of numbering resources. This action was taken in light of the numerous state petitions seeking additional authority in areas of



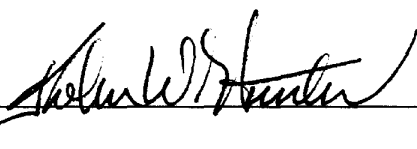
benefit of all jurisdictions simultaneously. USTA opposes delegation of authority to California to directly reclaim any type of unused codes.

### **Conclusion**

The California petition consists of ill-conceived, unsubstantiated requests for authority. For the reasons stated herein, the Commission should deny the California petition. The Commission and the industry must concentrate on the national process to resolve the outstanding issues for which California has requested additional authority. It should further act swiftly to address on a generic basis the matters raised by individual states in their waiver petitions.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By \_\_\_\_\_

*Its Attorneys:*

Lawrence E. Sarjeant  
Linda L. Kent  
Keith Townsend  
John W. Hunter

1401 H Street, N.W.  
Suite 600  
Washington, D.C. 20005  
(202) 326-7375

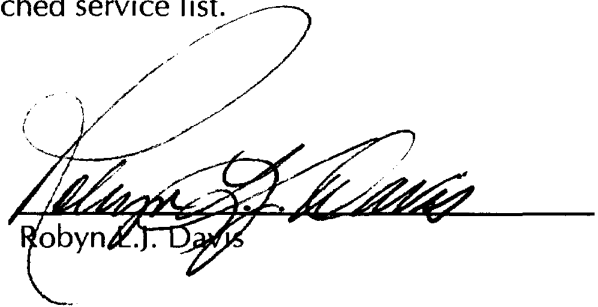
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numbering exhaust, relief planning and allocation of the numbering resource. Those suggestions are part of the record of that meeting.

**CERTIFICATE OF SERVICE**

I, Robyn L.J. Davis, do certify that on June 14, 1999, Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



Robyn L.J. Davis

Al McCloud  
Federal Communications Commission  
Portals II  
445-12th Street, SW - Room 6A-320  
Washington, DC 20554

Peter Arth, Jr.  
Lionel B. Wilson  
Helen M. Mickiewicz  
PUC of California  
505 Van Ness Avenue  
San Francisco, CA 94102

ITS  
1231-20th Street, NW  
Washington, DC 20036